



DIGNITY AT WORK POLICY AND PROCEDURES

Preventing Bullying and Harassment in the Diocese of Newcastle

**Prepared by the North East Regional
Human Resources Team**

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DIGNITY AT WORK POLICY AND PROCEDURES

STATEMENT OF COMMITMENT

'The Church is required by God to foster relationships of the utmost integrity, truthfulness and trustworthiness. Abuse, harassment and bullying - however rare - will not be tolerated in the Diocese. All complaints of abuse, harassment and bullying will be taken seriously and thoroughly investigated.'

House of Bishops 2001

1. INTRODUCTION

We are all less than perfect and in all human communities including the church occasions can sometimes arise where people, for a variety of reasons and sometimes unknowingly, use behaviour that is unacceptable.

Recognising that issues can sometimes arise does not undermine or debase the value of the community; it simply acknowledges our human frailty and is a first step in tackling and reducing problems.

This document has been produced to aid such a process. It draws on the Church of England document *"Dignity at Work: Working Together to Reduce Incidents of Bullying and Harassment"* which can be accessed through the link www.churchofengland.org/dignityatwork. This document contains additional useful information and resources to support those dealing with this difficult issue.

Harassment, bullying and victimisation are serious problems, which can affect the health, ministry and work performance of individuals and this in turn can affect the ministry that the diocese is able to offer to those it exists to serve.

All individuals have the right to be treated with dignity and respect and should be able to work without fear of harassment, bullying or victimisation. If a complaint is brought to the attention of the diocese, it will be investigated promptly and appropriate action will be taken.

2. WHAT IS BULLYING AND HARASSMENT?

The legal definition of harassment is set out in the Equality Act 2010.

Harassment

Harassment is unwanted conduct related to relevant protected characteristics, which are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race (which includes colour, nationality and ethnic or national origins), religion or belief, sex and sexual orientation, that:

- has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person; or
- is reasonably considered by that person to have the effect of violating his/her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for him/her, even if this effect was not intended by the person responsible for the conduct.

Conduct may be harassment whether or not the person behaving in that way intends to offend. Something intended as a "joke" may offend another person. Different people find different things acceptable. Everyone has the right to decide what behaviour is acceptable to him/her and to have his/her feelings respected by others. Behaviour which any reasonable person would realise would be likely to offend will be harassment without the recipient having to make it clear in advance that behaviour of that type is not acceptable to him/her, eg sexual touching.

It may not be so clear in advance that some other forms of behaviour would be unwelcome to, or could offend, a particular person, eg certain "banter", flirting or asking someone for a private drink after work. In these cases, first-time conduct which unintentionally causes offence will not be harassment but it will become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to him/her.

A single incident can be harassment if it is sufficiently serious.

Harassment may also occur where a person engages in unwanted conduct towards another because he/she perceives that the recipient has a protected characteristic (for example, a perception that he/she is gay or disabled), when the recipient does not, in fact, have that protected characteristic. For example, it would be harassment for an individual to tease repeatedly an individual because of an incorrect belief that the recipient is deaf. Similarly, harassment may be deemed to have taken place where an individual is bullied or harassed because of another person with whom the individual is connected or associated, for example if his/her child is disabled, wife is pregnant or friend is a devout Christian.

Harassment also includes circumstances where an individual is subjected to unwanted conduct from a third party, such as a client or customer. For example, it might be that a client makes a series of racist remarks to a black employee.

Bullying

There is as yet no legal definition of bullying and it is viewed as a form of harassment. Acas describes workplace¹ bullying as characterised by offensive, intimidating, malicious or insulting behaviour or abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient with the result that they feel undermined, humiliated or injured.

Any behaviour that could potentially undermine someone's dignity and respect should be regarded as unacceptable. If it is not challenged it is likely to escalate and lead to significant difficulties for all concerned.

Bullying is most easily identified when it is continuous, frequent, repetitive and part of an overall pattern. However, some abuse is serious enough to be recognised even if the behaviour occurred only once and is therefore not defined as bullying.

3. HOW CAN BULLYING AND HARASSMENT BE RECOGNISED?

Harassment is unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion or belief (including theology or churchmanship), nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The important point is that the actions or comments are reasonably considered by the recipient to be demeaning or unacceptable.

Examples of bullying behaviour and harassment are listed in **APPENDIX A**. This list is not exhaustive but gives a clear indication of the sorts of actions that might constitute bullying or harassment.

It is recommended that if a person complains that he/she is being bullied or harassed, then he/she has a grievance, which should be investigated regardless of whether or not their complaint accords with a standard definition of bullying or harassment.

Bullying may manifest itself in a variety of different ways. It is usually persistent, and often unpredictable, and can amount to psychological intimidation. It is insidious, and undermines the ability and confidence of the person subjected to it. It can lead to fear, isolation, lack of motivation

¹ All references to work and workplace will be deemed to include situations in parishes involving clergy and lay people where this is appropriate

and reduced output, poor concentration, symptoms of stress, a noticeable level of sickness absence or stubborn attendance when obviously unwell, psychological, emotional and physical harm.

On the other hand it is important to distinguish between bullying, and behaviour that is reasonable in a particular context.

For example there may be occasions where shortcomings in performance are being addressed and more incisive behaviour is interpreted as bullying simply because the recipient is unused to being challenged or asked to account for their actions.

4. SCOPE OF POLICY

This policy covers bullying and harassment of and by:

- senior clergy (Area Deans, Archdeacons, Suffragan and Assistant Bishops and the Diocesan Bishop) with pastoral responsibility for clergy in this diocese;
- the laity of this diocese;
- the clergy of this diocese; and
- it covers bullying and harassment in the workplace and in the context of the parish; and
- applies to employees, office holders, members of congregations and other volunteers.

Confidentiality

It is diocesan policy that these matters are to be treated with absolute confidentiality and that no action will be taken without the willing consent of the person who feels he or she has been a victim unless taking no action places that person or others at risk. However it must be clearly understood that if, during the course of an investigation, any civil or criminal activity is alleged or suspected, the Diocese is compelled by law to inform the relevant authorities. This may require the Diocese to suspend or close any investigation of its own.

Informal support and conversation

It is important that support is offered informally at the earliest opportunity to someone who may be experiencing bullying and harassment. An initial conversation at this stage could prevent a worse situation developing, and avoid the need to enter into more formal procedures.

All clergy, employees and lay people within the Church should know to whom they should turn if they feel they have been the victim of bullying and/or harassment.

Clergy, employees or lay persons who would like a confidential discussion should contact the Diocesan Secretary, Human Resources Adviser or an Archdeacon in the first instance.

In a similar way those who are accused of bullying and/or harassment should also be offered support.

5. PROCEDURE FOR DEALING WITH A COMPLAINT OF BULLYING OR HARASSMENT

Informal Stage

It may be possible to sort out matters informally. The perpetrator may not know that their behaviour is unwelcome or upsetting. An informal discussion may help them to understand the effects of their behaviour and to agree to change it. The person being bullied or harassed may feel able to approach the person them self, or with the help of someone in human resources, a manager, trade union representative, or another employee.² Alternatively, an initial approach could be made on behalf of the person being bullied or harassed by one of these people.

Initially the person being bullied or harassed or their representative should tell the person who is carrying out the bullying or harassment what behaviour is considered to be offensive and unwelcome, and say that they would like it to stop immediately. It should be explained that, if the behaviour continues, a formal complaint will be made to a senior member of clergy, line manager or human resources. A note of the date and what was said and done should be kept. This will be useful evidence if the unacceptable behaviour continues and the person being bullied decides to make a formal complaint.

Mediation and Restorative Justice

It is recommended that the use of mediation is considered at an early stage before entering formal procedures. However mediation can be used at any stage during the process if it is considered that it might bring about a resolution of the issue.

Both mediation and restorative justice are a positive means of addressing issues of bullying and harassment. Whenever possible this route should be used as it is more likely to result in a successful resolution of the issues.

Mediation is about resolving disagreements and disputes. A neutral third party works with those in dispute to help them to reach an agreement. It is a voluntary process and to be successful the participants have to want it to work. An external mediator will usually be sourced by the Diocese³ (*for further information see the Church of England document Dignity at Work: Working Together to Reduce Incidents of Bullying and Harassment paragraphs 4.9 – 4.13*).

The aim of Restorative Justice is to resolve conflict and repair harm. It encourages those who have caused harm to acknowledge the impact of what they have done and give them an opportunity to make reparation. For those who have suffered harm, it offers the opportunity to have this acknowledged and amends made (*for further information see Dignity at Work: Working Together to Reduce Incidents of Bullying and Harassment paragraphs 4.14 – 4.17*).

Further details on how to address complaints of bullying and harassment through mediation are set out in **APPENDIX B**.

² If the person being bullied or harassed is a member of laity in a parish or a volunteer then he or she may be accompanied by another member of the congregation.

³ In the case of an issue in a parish which does not involve members of clergy or diocesan employees then external mediation will be sourced by the PCC. Guidance may be available from the Diocese.

Formal Stage

If an informal approach does not resolve matters, or the situation is too serious to be dealt with informally, the person being bullied or harassed can make a formal complaint by using the appropriate diocesan procedure. Advice from HR should be sought prior to moving into formal procedures. Information should be provided to HR on the steps that have already been taken to resolve the matter informally.

Formal procedures

There are a number of different diocesan policies and procedures that might apply in situations of alleged bullying and harassment.

- When both the perpetrator and the victim are clergy persons or stipendiary licensed lay ministers on common tenure, complaints of bullying or harassment may be brought by the victim under the Clergy Grievance Procedure introduced through the Ecclesiastical Offices (Terms of Service) Regulations 2009.
- When only the perpetrator is a clergy person, it may be more appropriate for the victim, or an Archdeacon with the victim's consent, to make a complaint under the Clergy Discipline Measure 2003.

Advice will be sought from the Human Resources Adviser about the most appropriate procedure to follow and where it is considered that a complaint might be made under the Clergy Discipline Measure advice will be sought from the Registrar.

- When the perpetrator is a layperson and the victim is either ordained or lay, complaints of bullying or harassment may, with the victim's consent, be dealt with in one of a number of ways according to the circumstances.
- When the victim is an employee, complaints of bullying or harassment may be brought under the Diocesan Grievance Procedure. When the perpetrator is an employee, upheld complaints will be dealt with under the Diocesan Discipline Procedure.

The table in **APPENDIX C** summarises the different approaches that might be applied.

False Accusation

False accusations are a serious matter. The behaviour of anyone who is found to have made an unfounded, deliberately malicious complaint or allegation will be regarded with the utmost seriousness and where possible formal action taken. In the case of a clergy person this may be a complaint under the Clergy Discipline Measure 2003. A member of either the clergy or laity could be subject to civil action if they have made false accusations against someone else.

Follow up and Monitoring

When a complaint has been resolved, whether or not the case resulted in action against the perpetrator, monitoring should be maintained for an appropriate period of time which should be a minimum of six months. If the behaviour is repeated then there should be a fast track process to identify this and deal with it promptly.

Communications and Awareness Raising

There are a number of ways that information on bullying and harassment can be communicated to clergy, church wardens, employees, lay staff and congregations. These include training events, workshops, newsletters, email, information on websites etc. It is important that training is made available to office holders, employees and volunteers who have particular responsibility for dealing with issues of bullying and harassment.

EXAMPLES OF BULLYING BEHAVIOUR AND HARASSMENT

- setting out to make someone appear incompetent
- persistently picking on someone in front of others
- deliberate sabotage of work or actions
- displays of offensive material
- use of e-mails to reprimand, insult or otherwise inform someone of their apparent failing, either to the individual or to third parties
- repeatedly shouting or swearing in public or in private
- public humiliation by constant innuendo, belittling and 'putting down'
- personal insults and name-calling
- aggressive gestures, verbal threats and intimidation
- persistent threats about security
- making false accusations
- aggressive bodily posture or physical contact
- talking/shouting directly into someone's face
- direct physical intimidation, violence or assault

The most serious incidents might result in:

- creating an unsafe working environment
- ignoring signs of overwork and extreme stress
- putting someone's health physically, emotionally or psychologically at risk by making them upset, frightened and/or ridiculed.

MEDIATION

It should be borne in mind that seeking legal remedy can be a protracted, costly and painful process, and it is not designed to address the underlying issues. Working to develop a culture that makes it less likely that bullying and harassment will take place, and acting swiftly to nip it in the bud if it does, will help to reduce the need for legal action. For these reasons the priority is to encourage a mediation process to be adopted. Mediation is not legally binding and does not decide who is right or wrong; it allows parties to speak openly and honestly about their disagreements using a third party (mediator) to help them work through their differences.

How it works

1. An individual or group has concerns about being bullied or harassed.
2. They have an informal discussion with the Archdeacon, Diocesan Secretary or HR Adviser.
3. If criminal activity is suspected, the Police will be contacted.
4. If the CDM procedure is to be invoked, the Archdeacon will take this forward after discussion with the Registrar.
5. If neither 3 nor 4 apply and bullying or harassment is suspected, the individual or group will be referred to xxxxxx.
6. xxxxxx will meet with each party individually (both the person making the complaint and the person to whom the complaint refers).
7. If requested xxxxxx may speak on behalf of the person making the complaint and try to resolve the issue. This may be possible and if so the process is ended.
8. xxxxxx works with the parties together to resolve the issues.
Steps 2-8 should be a quick and informal process
9. If the issues are still not resolved, and both parties agree xxxxxx sets up a meeting with the mediator.
10. The mediation process begins.
 - A The issue is resolved and the process is ended
 - B The mediation does not resolve the issues and a report is sent to the Bishop that outlines the process followed, but does not divulge the detail of the mediation. The Bishop decides if he needs to take any action.

Principles of Mediation

It is important to stress that this policy comprises a mediation process. Mediation is a well-established process for resolving disagreements in which an impartial third party (the mediator) helps people in dispute to find a mutually acceptable resolution. Mediation has a structure, timetable and dynamics that "ordinary" negotiation lacks. Participation is voluntary and cannot be compelled. The mediator acts as a neutral third party and facilitates rather than directs the process.

Mediation can assist the process of reconciliation as it encourages clarification of what has happened, how it is perceived by the other person and acknowledgement of the depth of anger and hurt. Reconciliation, when possible, involves the rebuilding of damaged relationships for both parties.

Mediation should not be seen as committing people in advance to a particular outcome, but it does require willingness by all concerned to find a mutually acceptable solution. The emphasis is on collaborative problem-solving between those in dispute – 'win/win'.

Mediation is a voluntary process. Unlike arbitration, the third party has no power to impose or even formally recommend a solution. The focus is on the future – rebuilding relationships rather than

apportioning blame. It acknowledges feelings as well as facts, to allow participants to let go of anger/upset and move forward.

Mediation is most likely to work when it is used early on and those in dispute want it to work. They must be prepared to be open and honest and to consider working towards reconciliation and a continuing relationship. The process of helping the parties to work through their issues openly is likely to encourage better collaborative working in the future, particularly when time is spent allowing people to explain how they feel about the other's action or just gaining an understanding of what they didn't know or understand.

Mediation is usually much quicker than formal processes and often produces longer lasting and more positive solutions. The greatest benefit is that it allows individuals to control the process and find their own solutions. Nothing is imposed, although a mediator will skilfully guide people through their difficulties and encourage them to look to the future if they become stuck in the past. It generally has a benefit even if agreement is not reached – participants usually have a better understanding of the other, even if they still cannot agree.

Setting up Mediation

In situations where xxxxxx has not been able to help the parties to resolve the issues, xxxxxx may decide that it would be appropriate to encourage the parties to consider mediation.

This is a voluntary process aimed at resolving the issues. While no-one can be compelled, they would be encouraged to take part to move the process forward.

If both parties agree, xxxxxx will set up a meeting with a mediator.

The Mediation Process

Mediation helps the parties in the dispute to identify the 'real' issues, to work through them openly and honestly and encourages options for resolution. The mediator is the facilitator and plays an active role in guiding parties through the confidential process in an impartial and empathetic way.

The Stages:

1. Separate meeting with the individual parties

Meeting with the parties individually allows the mediator to:

- * explain the process, including their role in it
- * explain the parties will set appropriate ground rules together
- * begin to build up some trust and rapport
- * gain some commitment to the process
- * explore the issues of the conflict
- * explain and prepare for a joint meeting if both parties give agreement to it; *however it will also allow the mediator to see if mediation is appropriate and if so to consider the best way to continue.*

2. Hearing the Issues

The parties will come together at a mutually convenient time. Ground rules are explored and agreed by all parties. The mediator then allows uninterrupted time for each party to offer their story. Together they set the agenda for the rest of the meeting having pulled out the issues which will form the basis for the discussion.

3. Exploring the Issues

The mediator asks questions of clarity to both individuals, ensuring a fair allocation of time to each party. The mediator may be able to see what the underlying concerns are; help them to discuss these and in particular encourage communication between the parties; get them to look to the future; find out what they hope to achieve and how they can work together in the future. It may be necessary to acknowledge that some differences will not be overcome, in which case they can look at ways to deal with these.

4. Building and writing agreements

Building on what has been said; the mediator will encourage the parties to find solutions or suggestions to deal with the problems. Together they will test the solutions and finally the mediator will sum up areas of consensus and disagreement if some still exist.

The mediator will ascertain whether or not a written agreement is wanted or necessary or if it will be recorded in any way. The mediator will help them to put an agreement together and it will be written and signed there and then.

5. Closure

The mediator clarifies what will happen to the agreement and that it is completely confidential; they must decide who (if anyone) needs to know anything and how that will happen. If no agreement has been reached, the mediator may look at what has been achieved (or not) and the parties may look at what options are now available to them. The mediator will try to ensure that the parties leave with neither feeling an injustice.

The mediator will explain that their role ends here, but may offer a follow up meeting if the parties would find it helpful; if not the mediator may encourage the parties to review their situation in a few months, but encourage them not to leave it if relationships begin to unravel.

If Mediation Fails

If in the opinion of xxxxxx, the mediation process has failed, he or she will provide a brief report for the Bishop in order to help him consider any appropriate action.

APPENDIX C

Situation	Appropriate Procedure	Person Handling the Complaint	Appeal Against Outcome	Action should complaint be upheld
Member of clergy makes a complaint against another member of the clergy.	Victim may bring a complaint under the Clergy Grievance Procedure.	The Bishop will appoint a suitable person normally the Archdeacon (unless the complaint is against the Archdeacon in which case the Bishop should appoint another suitable person).	Stage 3 of Grievance Procedure.	Discussion with Diocesan Registrar to determine whether the Archdeacon should bring a complaint under CDM.
Member of clergy makes a complaint against a lay employee of the diocese.	Victim may bring a complaint under the Clergy Grievance Procedure.	The Bishop will appoint a suitable person normally the Archdeacon or the Diocesan Secretary.	Stage 3 of Grievance Procedure.	Employee faces disciplinary action under DBF Disciplinary procedure.
Member of clergy makes a complaint against a lay employee of the parish.	Victim should raise complaint with the Lay Vice Chair of PCC.	PCC will appoint a suitable person to investigate.		Employee faces disciplinary action under Parish Disciplinary procedure.
Member of clergy makes a complaint against a member of the laity.	The procedure set out at APPENDIX D should be used.	Archdeacon or another person appointed by the Bishop carries out an investigation and makes recommendations to resolve the matter.	No appeal stage as such but Bishop and Archdeacon continue to work with the member of clergy to resolve matters.	Bishop takes such action as permitted by ecclesiastical legislation.
Employee of diocese makes a complaint against another employee of the diocese.	The complaint should be dealt with under the DBF Grievance Procedure.	Diocesan Secretary (unless the complaint is against the Diocesan Secretary in which case another suitable person should be identified to investigate the matter).	Stage 3 of DBF Grievance Procedure.	Employee faces action under DBF Disciplinary Procedure.
Employee makes a complaint against a member of the clergy.	The complaint should be dealt with under the DBF Grievance Procedure.	Diocesan Secretary ⁴	Stage 3 of DBF Grievance Procedure.	Discussion with Diocesan Registrar to determine whether a complaint should be brought under CDM.

⁴ There may be occasions when it is more appropriate for the Archdeacon to investigate a complaint.

APPENDIX C

Employee of DBF makes a complaint against an employee of a parish.	The complaint should be dealt with under the DBF Grievance Procedure.	Diocesan Secretary who should raise the matter with the Chair of the PCC to enable full investigation.	Stage 3 of DBF Grievance Procedure.	Employee faces action under Parish disciplinary procedure.
Employee of parish makes a complaint against a member of the laity.	The complaint should be dealt with under the Parish's Grievance Procedure.	Person appointed by the PCC carries out an investigation and makes recommendation.	No appeal stage as such but PCC continues to work with the employee to resolve matters.	Bishop takes such action as permitted by ecclesiastical legislation.
Member of the laity makes a complaint against a member of the clergy.	The procedure set out at APPENDIX D should be used unless the Diocesan Registrar advises that it should be dealt with under CDM.	Archdeacon or another person appointed by the Bishop carries out an investigation and makes recommendation.	No appeal stage as such but Bishop and Archdeacon continue to work with the parties to resolve matters.	Further discussion with Diocesan Registrar to determine whether a complaint should be brought under CDM. If the matter does not qualify as CDM then the bishop takes such action as permitted by ecclesiastical legislation.
Member of the laity makes a complaint against an employee of a parish.	The procedure set out at APPENDIX D should be used.	The PCC appoints a suitable person to investigate and make recommendations.	No appeal stage as such but the PCC continues to work with the parties to resolve matters.	Employee faces disciplinary action under the Parish's Disciplinary procedure.

Bullying and Harassment Procedure: Guidance for Dealing with Formal Complaints about members of the Laity

It is the policy of the diocese to use existing procedures to deal with matters of bullying and harassment whenever possible. The appropriate procedures are identified in the table in **APPENDIX C** of this document. When the complaint is against a church warden, a reader, a PCC member or member of the congregation, the circumstances are outside the remit of existing procedures and the process set out in this appendix and illustrated in **APPENDIX E** should be used.

Therefore the first stage when receiving a formal complaint of bullying or harassment is to seek advice from the HR Regional Manager or HR Adviser as to which procedure applies. If attempts have not already been made to resolve matters informally or use mediation then the HR Manager or Adviser will explore with those involved whether this is a way forward prior to implementing any formal procedures.

If the complaint is from a member of the clergy then the HR Manager or Adviser will help to determine whether the issue can be addressed through resolution and reconciliation or whether the complainant is seeking justice and vindication. If it is the latter then an appropriate person should be appointed to investigate.

If the complaint is from another member of the laity then the PCC will need to take advice from the Archdeacon in the first instance who may refer the PCC to the HR team or advise them to take independent legal advice depending on the circumstances.

Investigation

When it is advised that this process should apply then an investigation should be undertaken by either an appropriate person appointed by the Bishop, if the complainant is a member of clergy or an appropriate person appointed by the PCC if the complainant is a member of laity and an agreed resolution sought.

It must be recognised that this procedure is to be used in circumstances where one of the parties is a member of the laity and therefore although they should be invited to respond to allegations they cannot be required to participate in an investigation or to attend a meeting. Should one of the parties refuse to attend then it might be possible to investigate the matter through correspondence or other means.

If it is not possible to resolve the matter and the investigation indicates that bullying or harassment may have occurred then a meeting of three representatives appointed by the Bishop, if the complainant is a member of clergy or the PCC, if the complainant is a member of the laity should be convened. The Bishop or PCC should designate one of the three representatives as the Chair of the meeting

Meeting

All paperwork received (from either party) should be distributed to both parties and the three representatives at least seven days before the meeting.

The investigator should explain his/her findings.

Both parties should be invited to the meeting and given the opportunity to have their views heard separately. As stated above complainants or victims who are not office holders or employees cannot be required to attend meetings or take part in this process.

APPENDIX D

Consideration should be given to questioning through correspondence if the member of laity is not willing to attend.

Where the parties do attend the meeting there must be an opportunity for the three representatives to ask questions seeking clarification as appropriate.

The representatives should consider the evidence and decide whether the allegation is upheld. The outcome should be communicated by the Chair of the meeting to the parties in writing within seven days.

**BULLYING AND HARASSMENT ALLEGATIONS AGAINST CHURCHWARDENS,
PCC MEMBERS AND MEMBERS OF THE CONGREGATION.**

